

APPLICATION NO. 09/871,243  
DOCKET NO. P1038/N8788

### **REMARKS**

Claims 1-5, 7-13 and 28-38 are pending in the application, with claims 1-5, 7-13, 28-31 and 34-38 provisionally rejected under the judicially created doctrine of obviousness-type double patenting, over sister case Serial No. 10/224106 (filed August 20, 2002 as a divisional from the above-captioned application). Claims 32 and 33 stand objected to.

Because the 10/224106 application was filed as a divisional from the above-captioned application, and claims subject matter restricted out from the above-captioned application in response to a Restriction Requirement made telephonically August 15, 2002 and confirmed in the Office Action mailed September 27, 2002, the cited application is not available as a reference in a double patenting rejection of claims of this application (35 U.S.C. §121). Thus, the rejection of claims 1-5, 7-13, 28-31 and 34-38 should be withdrawn and passed to allowance. Allowance of claims 32 and 33 should also therefore follow.

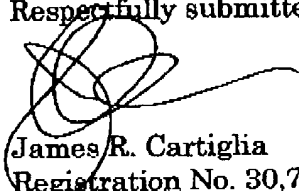
### **CONCLUSION**

Based on the foregoing remarks, it is believed the above-captioned application is in condition for allowance. Such action is earnestly sought. If there remains any matter which prevents the allowance of any of pending claims 1-5, 7-13 and 28-38, the Examiner is requested to call the undersigned, collect, at 615-242-2400 to arrange for an interview which may further expedite prosecution.

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The Commissioner is authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 50-1202.

Respectfully submitted,



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**CERTIFICATE OF FACSIMILE TRANSMITTAL**

**I hereby certify that this Response To Office Action is being  
facsimile transmitted to the United States Patent and Trademark Office,  
Fax No. 703-872-9306 on April 12, 2004.**

James R. Cartiglia



Signature

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12 April 04

Date